

Monday, April 29, 2024 at 11:56:50 Mountain Daylight Time

Subject: Re: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories
Date: Wednesday, January 31, 2024 at 12:47:23 PM Mountain Standard Time
From: Daniel Brenner
To: Saunders, Kevin, McLaughlin, Matthew, Burkett McInturff, Wynne, William
CC: Ethan Roman, Jonathan Shub, Samantha E. Holbrook
Attachments: image001.png, image002.png

Matt,

Thanks for speaking on the phone just now and confirming that Defendant is conducting a manual review for responsiveness and privilege and will not withhold responsive documents on the basis of the objections in the Responses and Objections to the First Set of Requests for Production and the Responses and Objections to the First Set of Interrogatories (other than for privilege). We understand that, should the need arise to alter or amend the review process based on unanticipated issues, the parties will discuss at that time.

And thanks for agreeing to take the first pass at the joint letter due tomorrow.

Best,
Dan

Daniel J. Brenner

WMP | Senior Associate

305 Broadway, 7th Floor | New York, NY 10007
Phone: 914 775 8862 x113 | Fax: 914 775 8862

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From: Saunders, Kevin <ksaunders@nixonpeabody.com>
Date: Tuesday, January 30, 2024 at 7:28 AM
To: Daniel Brenner <djb@wittelslaw.com>, McLaughlin, Matthew <MMCLAUGHLIN@nixonpeabody.com>, Burkett McInturff <jbm@wittelslaw.com>, Wynne, William <wwynne@nixonpeabody.com>
Cc: Ethan Roman <edr@wittelslaw.com>, Jonathan Shub <jshub@shublawayers.com>,

Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: RE: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

Dan, regrettably, it does not. How about tomorrow sometime between 9 am and 4 pm? Thanks.

From: Daniel Brenner <djb@wittelslaw.com>

Sent: Tuesday, January 30, 2024 9:26 AM

To: Saunders, Kevin <ksaunders@nixonpeabody.com>; McLaughlin, Matthew <MMCLAUGHLIN@nixonpeabody.com>; Burkett McInturff <jbm@wittelslaw.com>; Wynne, William <wwynne@nixonpeabody.com>

Cc: Ethan Roman <edr@wittelslaw.com>; Jonathan Shub <jshub@shublawayers.com>; Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: Re: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

Kevin,

We are not available at 3pm today. Are you available at 5pm?

Thanks,
Dan

Daniel J. Brenner

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From: Saunders, Kevin <ksaunders@nixonpeabody.com>

Date: Tuesday, January 30, 2024 at 6:41 AM

To: Daniel Brenner <djb@wittelslaw.com>, McLaughlin, Matthew <MMCLAUGHLIN@nixonpeabody.com>, Burkett McInturff <jbm@wittelslaw.com>, Wynne, William <wwynne@nixonpeabody.com>

Cc: Ethan Roman <edr@wittelslaw.com>, Jonathan Shub <jshub@shublawayers.com>, Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: RE: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

Dan, are you available at 3 pm today?

From: Daniel Brenner <djb@wittelslaw.com>

Sent: Monday, January 29, 2024 12:45 PM

To: McLaughlin, Matthew <MMCLAUGHLIN@nixonpeabody.com>; Burkett McInturff <jbm@wittelslaw.com>; Wynne, William <wwynne@nixonpeabody.com>; Saunders, Kevin <ksaunders@nixonpeabody.com>

Cc: Ethan Roman <edr@wittelslaw.com>; Jonathan Shub <jshub@shublawayers.com>; Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: Re: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

Matt,

Thank you for your email. Plaintiff is still unclear exactly what, if anything, Defendant intends to withhold or issues it believes may arise in connection with the review. We think it would be helpful to have a brief call for clarification to make sure we are on the same page.

Can you please let us know your availability for a very brief call today or tomorrow?

Thanks,
Dan

Daniel J. Brenner

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From: McLaughlin, Matthew <MMCLAUGHLIN@nixonpeabody.com>

Date: Friday, January 26, 2024 at 1:52 PM

To: Burkett McInturff <jbm@wittelslaw.com>, Wynne, William <wwynne@nixonpeabody.com>, Daniel Brenner <djb@wittelslaw.com>, Saunders, Kevin <ksaunders@nixonpeabody.com>

Cc: Ethan Roman <edr@wittelslaw.com>, Jonathan Shub <jshub@shublawayers.com>, Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: RE: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

Burkett,

I believe Defendant's position is clear based on Bill's e-mail below. Notwithstanding our objections to Plaintiff's requests, we are conducting a review for responsive documents based on the agreed-upon ESI protocol and have no intention of withholding any categories of responsive documents. But, pursuant to the protocol, we of course reserve the right to address with Plaintiff any issues that may arise in connection with our review.



Matthew T. McLaughlin

Partner

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From: Burkett McInturff <jbm@wittelslaw.com>

Sent: Monday, January 22, 2024 12:42 PM

To: Wynne, William <wwynne@nixonpeabody.com>; Daniel Brenner <djb@wittelslaw.com>; McLaughlin, Matthew <MMCLAUGHLIN@nixonpeabody.com>; Saunders, Kevin <ksaunders@nixonpeabody.com>

Cc: Ethan Roman <edr@wittelslaw.com>; Jonathan Shub <jshub@shublawayers.com>; Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: RE: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

Bill,

Thanks for your email. We read your below email's statement that HOP has "no intention of withholding categories of documents that are otherwise responsive to Plaintiff's requests" to mean that HOP will not be withholding any non-privileged material that is responsive to the First Set of Requests for Production of Documents or First Set of Interrogatories in *Melville*. Unless we hear otherwise from you by close of business today, we will mark this issue as resolved and thus do not see a need to raise it with the Court.

Thank you,

Burkett

From: Wynne, William <wwynne@nixonpeabody.com>

Sent: Friday, January 19, 2024 7:26 PM

To: Daniel Brenner <djb@wittelslaw.com>; McLaughlin, Matthew

<MMCLAUGHLIN@nixonpeabody.com>; Saunders, Kevin <ksaunders@nixonpeabody.com>

Cc: Burkett McInturff <jbm@wittelslaw.com>; Ethan Roman <edr@wittelslaw.com>; Jonathan Shub

<jshub@shublawayers.com>; Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: RE: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

Dan,

We're not sure what you're asking. The parties have agreed on search terms and custodians/scope, have an ESI protocol in place, and Defendant is beginning its review of documents for production. This is consistent with the Court's directive to the parties to focus on document production. At this stage, we have no intention of withholding categories of documents that are otherwise responsive to Plaintiff's requests. But we obviously reserve the right, pursuant to the ESI protocol, to raise any issues we encounter during our review and production.

Best,

Bill



William H. Wynne

Counsel

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From: Daniel Brenner <djb@wittelslaw.com>

Sent: Tuesday, January 16, 2024 2:05 PM

To: McLaughlin, Matthew <MMCLAUGHLIN@nixonpeabody.com>; Saunders, Kevin

<ksaunders@nixonpeabody.com>; Wynne, William <wwynne@nixonpeabody.com>

Cc: Burkett McInturff <jbm@wittelslaw.com>; Ethan Roman <edr@wittelslaw.com>; Jonathan Shub

<jshub@shublawayers.com>; Samantha E. Holbrook <sholbrook@shublawayers.com>

Subject: HOP - Defendant's Position on Plaintiff's First Set of RFPs and Interrogatories

[EXTERNAL E-MAIL]

Be Aware of Links and Attachments

Matt, Kevin, and Bill,

Now that the parties have agreed on search terms and HOP is commencing document review, it has become very time sensitive that HOP memorize its position on each written discovery request in Plaintiff's First Set of Requests for Production of Documents and Plaintiff's First Set of Interrogatories

in *Melville*. Current defense counsel has never provided its position on that written discovery. Plaintiff needs to know which categories of responsive material Defendant intends to withhold and the specific grounds for doing so. Defendant agreed to create such a document on September 15, over **four months** ago. We have followed up about it at least three times requesting that you provide this critical information. See S. Holbrook 9/15/23 email; D. Brenner 10/10/23 email; D. Brenner 10/23/23 email; D. Brenner 11/15/23 email.

Unless you confirm that HOP will not be withholding **any** non-privileged responsive material, please provide by no later than this Friday, January 19, HOP's position for each request and interrogatory as to (i) the categories of responsive material it intends to withhold and (ii) the specific grounds for doing so.

If we do not receive an adequate account of HOP's proposed withholding (and grounds for doing so) by this Friday, we will have no choice but to involve the Court.

Thank you,
Dan

Daniel J. Brenner

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